

Assigned to FS &amp; JUD

FOR COMMITTEE



***ARIZONA STATE SENATE***  
***Forty-seventh Legislature, First Regular Session***

**CORRECTED**  
**FACT SHEET FOR H.B. 2428**

emancipation of minors

Purpose

Establishes a court procedure to emancipate a minor for specified purposes.

Background

Currently, twenty-nine states have statutory emancipation procedures. However, emancipation is unusual and authorized only in exceptional circumstances. Nineteen states require, in statute, that the child demonstrate to the court that the child is either successfully living independently already or show the maturity to do so. Nineteen states have a minimum age, sixteen of which set the age at sixteen. Three states recognize a minor as emancipated only if the person is married or has served in the armed forces of the United States.

Arizona does not have emancipation laws. A minor must have a legal guardian until he/she reaches the age of eighteen. The court has determined emancipation in few specific circumstances; for example, the court can find that a minor was emancipated for purposes of a contract. In the context of terminating a child support order, emancipation is limited to a child becoming eighteen years of age, getting married, being adopted or dying.

The anticipated fiscal impact for this bill is associated with increased court costs in excess of filing fees, costs for Child Protective Services (CPS) to investigate, and the costs to develop a new driver's license and identification license.

Provisions

***Emancipation Administrative Costs Fund (Fund)***

1. Establishes a filing fee of \$46 for a petition for emancipation and allows the court to reduce or waive the fee.
2. Establishes the Fund to collect filing fees on petitions for emancipation.
3. Authorizes the presiding judge of the juvenile court to use monies in the Fund to offset some of the administrative costs associated with emancipation proceedings.
4. Requires the county treasurer to invest monies and credit earnings to the Fund and submit a report on the Fund to the presiding judge by November 15 of each year.

### ***Petition for Emancipation***

5. Establishes a court process for a minor to request emancipation if the minor:
  - a. is at least 16.
  - b. is a resident.
  - c. is financially self-sufficient.
  - d. acknowledges in writing that the minor read and understands prescribed information.
  - e. is not a court ward or in the state's custody.
6. Requires the minor to demonstrate the ability to:
  - a. manage financial, personal and social affairs.
  - b. live wholly independent of parent or guardian.
  - c. obtain or maintain health care, education, training or employment.
7. Requires the minor to provide:
  - a. documentation of the minor's independent living for at least three consecutive months.
  - b. statement explaining why the minor believes the home of the parent or legal guardian is unsafe.
  - c. a notarized statement of written consent from the parent or guardian in addition to an explanation by the parent or guardian.

### ***Court Proceedings***

8. Stipulates that the minor has the burden of proof by clear and convincing evidence.
9. Allows the minor to participate on the minor's own behalf or be represented by an attorney.
10. Permits the court to appoint a guardian ad litem for the minor.
11. Requires the court to hold a hearing within 90 days of a petition being filed. The court may continue the hearing.
12. Requires the court to notify the petitioner and the petitioner's parents or legal guardian of the hearing information at least 60 days before the hearing by certified mail.
13. Allows the minor's parent or legal guardian to object to the emancipation within 30 days of being served of the notice of the hearing.
14. Requires the court to determine emancipation based on the best interests of the minor, considering:
  - a. potential risks and consequences.
  - b. wishes of the minor.
  - c. opinions and recommendations of the minor's parents or guardian.
  - d. financial resources of the minor and the minor's ability to be financially self-sufficient.
  - e. the employment, education and criminal history of the minor.
15. Requires the court to notify the Department of Economic Security if the minor is a child in a Title IV-D case.

### ***Stays of Proceedings***

16. Allows the court to stay the proceeding and refer parties to mediation or an alternative dispute resolution.
17. Requires the court to consider the following when determining whether to stay the proceedings and refer parties to mediation or alternative dispute resolution if the parent or legal guardian objects:
  - a. the parent or legal guardian has been convicted of criminal abuse, neglect or abandonment.
  - b. the parent or legal guardian is a perpetrator of abuse, neglect or abandonment according to the CPS registry.
  - c. the court believes mediation or alternative dispute resolution is not in the best interest of the minor.
  - d. any other information the court deems relevant.
18. Allows the court to stay the proceeding and require CPS to investigate if the petition contains an allegation of abuse, neglect or abandonment.

### *Effect of Emancipation*

19. Recognizes the adult rights to which an emancipated minor is entitled:
  - a. enter a contract.
  - b. sue and be sued.
  - c. buy and sell real property.
  - d. establish legal residence.
  - e. pay child support.
  - f. incur debts.
  - g. apply for social services.
  - h. obtain a job-related license.
  - i. apply for school.
  - j. apply for loans.
  - k. access medical treatment and records.
  - l. consent to medical treatment.
20. Terminates a parent's or guardian's right to the emancipated minor's income or child and medical support, tort liability and obligation to financially and medically support the emancipated minor.
21. Terminates a dependency action by operation of law.
22. Recognizes emancipation orders from other jurisdictions if the minor is at least 16 years of age.
23. Requires the Division of Motor Vehicles to issue either a driver license or a nonoperating identification license containing the words "emancipated minor" to a minor who applies and has proof of emancipation.
24. Requires the Administrative Office of the Courts (AOC) to report in the judicial department's annual report:
  - a. the number of petitions filed by age/county.
  - b. the number of petitions granted by age/county.
25. Requires AOC to collect information from October 1, 2005, through September 30, 2007, on emancipation by category of independent living, detrimental parental home or parental consent.

### *General*

26. Makes technical and conforming changes.

27. Becomes effective on the general effective date.

Correction

- Assigned to Family Services Committee and Judiciary Committee.

House Action

HS	2/24/05	DPA	7-0-1-0
3rd Read	3/7/05		39-15-6-0

Prepared by Senate Research

March 14, 2005

BG/JK/ac